

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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PALL CORP.,

Plaintiff(s),

ORDER

CV 97-7599 (PKC) (WDW)

CV 03-0092 (PKC) (WDW)

-against-

CUNO INC.,

Defendant(s),

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WALL, Magistrate Judge:

Before the court, on referral from Judge Chen, are certain expert discovery requests made by plaintiff Pall Corporation (“Pall”). *See* Docket Entry (“DE”) [353]. In particular, Pall has requested (1) leave to amend its reasonable royalty damages report due to changes in Federal Circuit law, specifically the decision in *Uniloc USA, Inc. v. Microsoft Corp.*, 632 F.3d 1292 (Fed. Cir. 2011); (2) leave to amend its current lost profits report on the limited issue of future price erosion; (3) leave to amend its willfulness expert reports due to changes in Federal Circuit law, specifically the decision in *In re Seagate Tech., LLC*, 497 F.3d 1360 (Fed. Cir. 2007) (4) leave to replace its willfulness expert since he has retired, and (5) leave to serve a rebuttal report addressing defendant 3M Purification Inc.’s (“3M”) new technical expert report. 3M disagrees with Pall’s interpretation of the *Uniloc* and *Seagate* decisions¹ and generally objects to Pall’s requests as gamesmanship meant to extend an already protracted litigation.

After reviewing the papers submitted by the parties and holding a hearing on the motion, I find that 3M will not be prejudiced by the revision of Pall’s expert reports, that Pall may replace its willfulness expert, and that Pall should have an opportunity to serve a rebuttal report addressing 3M’s new technical expert. The parties are directed to follow the revised expert discovery schedule provided below:

- **December 23, 2013:** Pall to serve amended reasonable royalty, lost profits, and willful infringement reports.
- **January 30, 2014:** Rebuttal expert reports due (including Pall’s rebuttal report to 3M’s new technical expert report).
- **March 5, 2014:** All expert depositions completed.

¹The issue of the interpretation of the *Uniloc* and *Seagate* decisions is not currently before this court.

The court takes no position on new Joint Pre-Trial Order and Pre-Trial conference deadlines because they were originally set by the District Judge.

Dated: Central Islip, New York
October 23, 2013

SO ORDERED:

s/ William D. Wall
WILLIAM D. WALL
United States Magistrate Judge